

**Agenda**  
**Bar Harbor Planning Board**  
**Wednesday, January 8, 2020 at 4:00 PM**  
**Council Chambers - Municipal Building**  
**93 Cottage Street**

**I. CALL TO ORDER**

**II. ADOPTION OF THE AGENDA**

**III. EXCUSED ABSENCES**

**IV. PUBLIC COMMENT PERIOD**

The Planning Board allows up to 15 minutes of public comment on any subject not on the agenda and not a pending application before the board, with a maximum of three minutes per person.

**V. APPROVAL OF MINUTES**

- a. December 4, 2019 (regular monthly meeting)
- b. December 10, 2019 (special meeting)

**VI. REGULAR BUSINESS**

**a. Reapproval and re-signing of a Major Subdivision Plan known as Hamilton Hill Subdivision (SD-2018-01)**

**Project Location:** 18 Eagle Lake Road (Tax Map 107, Lots 001-000 and 001-002), Village Residential District

**Applicant:** Kebo Properties, LLC

**Application:** Reapproval and re-signing of the Hamilton Hill Subdivision application (SD-2018-01, 16 lots) which was previously approved and signed by the board on May 15, 2019, but the approval of which lapsed as the applicant did not provide the Planning Department with proof of recording at the Hancock County Registry of Deeds, as required by §125-75 (Approval and recording) of the Bar Harbor Land Use Ordinance.

**b. Public Hearing — Draft Warrant Article — LAND USE ORDINANCE**

**AMENDMENT — Addressing Officer** – Shall an ordinance, dated December 16, 2019 and entitled “An amendment to Article V, Site Plan Review, to use the term Addressing Officer in place of Municipal Tax Assessor” be enacted?

**c. Public Hearing — Draft Warrant Article — LAND USE ORDINANCE**

**AMENDMENT – Permitting Authority for Certain Residential Uses in Certain Districts, Adding a Use in the Shoreland General Development II District, and Removing Uses in the Shoreland Maritime Activities District** – Shall an ordinance, dated December 16, 2019, and entitled “An amendment to change the level of permitting for multifamily dwelling I uses from the Planning Board to Code Enforcement Officer (CEO) in 22 specific districts; address an inconsistency in the Land Use Ordinance by

making the CEO the permitting authority for two-family dwellings in the Village Historic district; change the level of permitting for single-family dwellings in the Shoreland General Development II district from Planning Board to CEO; add two-family dwellings as an allowed use in the Shoreland General Development II district with permitting by CEO; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district,” be enacted?

**d. Public Hearing — Draft Warrant Article — LAND USE ORDINANCE**

**AMENDMENT — Employee Living Quarters** – Shall an ordinance, dated December 16, 2019, and entitled “An amendment to create and define a new use titled ‘employee living quarters’; allow for the use in 14 specific districts; provide specific standards for the use; amend the definition of ‘family’; create a new definition titled ‘floor area, ground’; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district” be enacted?

**e. Public Hearing — Draft Warrant Article — LAND USE ORDINANCE**

**AMENDMENT — Shared Accommodations** – Shall an ordinance, dated December 16, 2019, and entitled “An amendment to create and define a new use titled ‘shared accommodations’ with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of ‘family’” be enacted?

**f. Public Hearing — Draft Warrant Article — LAND USE ORDINANCE**

**AMENDMENT — Official District Boundary Map Amendment For Hulls Cove Business and Shoreland General Development II districts, and Amendments to Create and Define a New TA Use and to Add Two New Uses to the Shoreland General Development II District** – Shall an ordinance, dated December 16, 2019 and entitled “An amendment to the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all four of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, to create and define a new level of transient accommodation use (proposed as “TA-9”) in §125-109 and to establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, to amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow “TA-9” and “campground (shoreland districts)” as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district” be enacted?

**VII. OTHER BUSINESS**

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

**IX. ADJOURNMENT**

**Bar Harbor Planning Board  
Wednesday, December 4, 2019 — 4:00 PM  
Council Chambers – Municipal Building  
93 Cottage Street in Bar Harbor**

**I. CALL TO ORDER**

Chair Tom St. Germain called the meeting to order at 4:05 PM.

Call to order  
at 4:05 PM

Members present were Chair St. Germain, Vice-chair Joe Cough, Secretary Basil Eleftheriou Jr. and member John Fitzpatrick. Member Erica Brooks was absent.

One board member  
absent from meeting

Town staff present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain and Assistant Planner Steve Fuller.

Three town staff  
members present

**II. ADOPTION OF THE AGENDA**

Vice-chair Cough moved to adopt the agenda, which was seconded by Mr. Fitzpatrick. It then carried unanimously (4-0).

Agenda adopted as  
prepared/presented

**III. EXCUSED ABSENCES**

Vice-chair Cough moved to excuse Ms. Brooks' absence. Mr. Fitzpatrick seconded the motion, and it then carried unanimously (4-0).

E. Brooks' absence  
is excused

**IV. PUBLIC COMMENT PERIOD**

Donna Karlson spoke. She asked if there would be an opportunity to speak on items later in the meeting, at the time that they come up for review, even though there were no public hearings associated with those items.

D. Karlson asks if  
there will be time to  
ask questions later

**V. APPROVAL OF MINUTES**

Chair St. Germain asked if board members felt any changes needed to be made to the draft minutes prepared for the October 30, 2019 meeting. No one offered any changes. Mr. Fitzpatrick moved to approve the minutes, seconded by Vice-chair Cough. Without discussion, the motion then carried unanimously (4-0).

Oct. 30, 2019  
minutes approved  
unanimously (4-0) as  
prepared/presented

**VI. REGULAR BUSINESS**

**a. Subdivision Pre-Application Sketch Plan Review for SD-2019-05 — Weathersby Subdivision**

**Project Location:** 1338 State Highway 102; Tax Map 227, Lot 16, totaling 2.0± acres of land in the Town Hill Business zoning district.

**Owners/Applicants:** Paul and Jane Weathersby

**Application:** To construct a single structure to contain eight TA-2 units and two year-round dwelling units. This new building would be the third residential building on the subject parcel.

*Per §125-72 E of the Bar Harbor Land Use Ordinance, the Planning Board shall entertain brief public comment on the proposal for the limited purpose of informing the applicant of the nature of any public concerns about the project so*

Subdivision Pre-  
Application Sketch  
Plan review for SD-  
2019-05 —  
Weathersby  
Subdivision

*that such concerns may be considered by the applicant in preparing his/her application.*

Applicant Paul Weathersby sat at the applicant's table with his representative, Greg Johnston. Jane Weathersby sat behind them in the audience. Mr. Johnston gave an overview of the project, explained what currently exists on the site and described where the property is located. He said they had met with the Maine Department of Transportation (MDOT) and that although an application has not been submitted, the meeting was favorable in that it was determined sight distance was met. Mr. Weathersby had a scale model of the proposed project with him at the applicant's table and gave board members a 360-degree overview of the model. He described which units, with various bedroom/bathroom configurations, would be in what particular locations. There were questions from the board and answers from the applicant about how the project would be located with regard to existing properties, structures and roadways.

Mr. Johnston said sketch plan review provided a good opportunity to get feedback from the board, as well as for the applicant to ask questions of the board. Chair St. Germain asked about the existing leach field, upgraded several years ago. Mr. Weathersby said it has 87 chambers, and Mr. Johnston explained how it has sufficient capacity for what is proposed. He said the full application will have calculations for the system, along with information from the designer.

Mr. Eleftheriou asked about fire protection notes in the Technical Review Team report. Mr. Johnston responded. He said the buildings will have to be sprinkled, as the project is proposed at this point. He said turnaround information for fire trucks will be shown in the full application. Mr. Johnston said storage tanks for the sprinklers will be housed in the basement areas.

Mr. Fitzpatrick expressed concern about another curb cut in that location. He said traffic in that area is already bad, and increasing that traffic would likely only worsen it. He said he was surprised to hear the sight distance was deemed adequate by MDOT. Mr. Johnston said the applicant will secure a curb cut permit from MDOT before coming back to the Planning Board. Mr. Weathersby said he had met with Craig Kosobud from MDOT and that Mr. Kosobud had identified the proposed curb cut location as his preferred location for it after walking the property line. Mr. Weathersby said some vegetation was identified as needing to be removed, and that some of that has since been done. Mr. Weathersby noted Mr. Kosobud's statement was not an official approval.

Chair St. Germain opened the floor for public comment at 4:19 PM. No one came forward to speak, and the public comment period was then closed.

Mr. Fitzpatrick then led a discussion on waivers, going through the checklist prepared by staff and reviewing the items flagged for waivers. He noted which waivers seemed appropriate to him, and which ones seemed like they needed to

**Paul and Jane Weathersby present, along with Greg Johnston**

**G. Johnston gives overview of project, P. Weathersby presents 3D model**

**Discussion of leach field**

**Fire protection options discussion**

**Curb cut concerns, applicant says DOT has already weighed-in**

**Public comment period at 4:19 PM, no one speaks**

**Discussion on waivers**

be exhibits instead. Mr. Fitzpatrick asked about water supply for the project, and whether it would be considered a public or central (private) supply. Mr. Johnston explained the applicant intends to have two wells, and that that was done intentionally to avoid being classified as a public water supply. He said the wells will not cross-feed to one another. In response to a question about 9Q, Mr. Johnston said no signage is planned as part of the project.

**Discussion on  
waivers**

Vice-chair Cough asked the board to consider removing the waiver indication for 12-I (Location, Dimension, Grade, Radii of Accel and Decel Lanes), and leave it open in case the DOT has it or ends up requiring it. Mr. Eleftheriou said the board could certainly revisit the item at a subsequent meeting.

After review and discussion, the following items initially flagged for waivers were changed by the board so that the applicant will need to provide an exhibit (staff went and updated the checklist to reflect these changes, after the meeting):

- 9Z: Portions of the Site Subject to Routine Flood/Standing Water
- 10: Medium Intensity Soil Survey (already provided)
- 11F: Tree (8+” d.b.h.) — applicant requested this be limited to the area to be developed, rather than the entire lot, and the board was OK with this
- 13A: Street Name Certification by Addressing Office
- 15A: HHE 200 Forms
- 18A: Statement from Bar Harbor Fire Chief
- 18B: State Fire Marshal’s Office Preliminary Approval
- 19A: Description, Amount and Nature of Solid and/or Hazardous Waste (Mr. Fitzpatrick said for the other three boxes under 19 to go away, the board would just need a statement that there will not be hazardous materials stored on the property)
- 20A: Floor Plans for All Levels of All Structures
- 20B: All Elevations Indicating Height and Proposed Exterior Materials and Colors
- 20C: Proposed Use of All Floors
- 21A: Exterior Lighting Details Existing & Proposed
- 21B: Types of Fixture with Manufacturer’s Specifications Sheets
- 21C: Radius of Intensity of Illumination
- 23A: Trip Estimates – Amount & Type – Day & Peak Hours
- 25A: Operating Statement & Mitigation Plan

**Board makes  
changes to specific  
items initially  
flagged in checklist  
as waivers that it  
now wants as  
exhibits, listed  
individually at left**

Although waivers will remain in place for 9Q and 22A, both relating to signage, Vice-chair Cough asked that a note be made the waivers were being considered in this case because the applicant has indicated no signage will be erected.

**Signage waivers  
eyed as no signage is  
proposed for project**

Discussion turned to holding a site visit and neighborhood meeting. Assistant Planner Steve Fuller apologized for an error in the staff report, misstating which component was mandatory and which was optional. Per the ordinance, a site visit

**Discussion on  
holding site visit and  
neighborhood  
meeting**

is mandatory and a neighborhood meeting is optional. Returning to the subject of the checklist, Planning Director Gagnon said staff would reissue a corrected checklist for the Weathersby project. She said the corrections would be captured in the Planning Board column on the checklist, after speaking with Mr. Johnston. Vice-chair Cough asked that notes be made next to 9Q and 22A relating to his point about signage — that the waiver was eyed because there is no signage.

**Mr. Fitzpatrick stepped out of the meeting at 4:37 PM. With his departure, the voting membership changed to three members.**

Chair St. Germain noted staff typically conducts a poll to schedule a site visit. **Mr. Eleftheriou made a motion to schedule a site visit within the next 30 days, [with the date] left up to staff [to schedule]. Vice-chair Cough seconded the motion, and it carried unanimously without further discussion (3-0).** There was discussion of flagging important features (buildings, roadways, etc.), and Mr. Johnston said he would do so per the requirements of the ordinance. Chair St. Germain asked how the board felt about a neighborhood meeting, and Vice-chair Cough said he thought it was a good idea. Assistant Planner Fuller noted that although no one was at the meeting that night to speak on the project, at least a couple of people had stopped in to the Planning Office to look at the plans for the project and ask questions. Mr. Eleftheriou said he did not know if it was possible to hold one in Town Hill. There was discussion of, and support for, holding it at the VIS building. **Vice-chair Cough made a motion for staff to coordinate a neighborhood meeting, hopefully with VIS. Mr. Eleftheriou seconded the motion and it then carried unanimously (3-0).**

Mr. Johnston asked about the board voting on the waivers as discussed that night. He said he thought there would be approval of the requested list of waivers, as modified during the meeting. A discussion with the board and staff ensued. Planning Director Gagnon said she thought it would be hard for the board to act on waivers when there is such relatively little information. Vice-chair Cough said he was inclined to leave things as they were, with a site visit and neighborhood meeting coming up. He said he would rather wait on voting on waivers, and said he did not think it delayed the process. He further said acting on waivers that night might give people who come to the site visit and/or neighborhood meeting the impression the matter(s) has/have already been decided. Mr. Johnston acknowledged that point but said it would be an incorrect impression for someone to get. Discussion continued. Chair St. Germain said the way the board could act on the waiver issue would be to request for the checklist to be updated based on the discussion that night. **Vice-chair Cough moved the chair's suggestion, that the checklist be updated by staff based on the discussion around waiver requests that night.**

**Mr. Fitzpatrick returned to the meeting at 4:45 PM. With his return, the voting membership changed to four members.**

**Staff will re-issue a corrected checklist based on discussion**

**J. Fitzpatrick leaves, voting membership stands at 3 members**

**Staff to schedule site visit within 30 days  
APPROVED: 3-0**

**Staff to coordinate neighborhood meeting, hopefully w/ VIS in Town Hill:  
APPROVED 3-0**

**Discussion on course of action on checklist waivers**

**J. Fitzpatrick returns, voting membership back to 4 members**

Board members briefed him on what he had missed and the motion that was then on the floor. **Mr. Eleftheriou seconded Vice-chair Cough's motion. Without further discussion, it then carried unanimously (4-0).**

**Board votes to have staff update checklist as directed  
APPROVED: 4-0**

Mr. Johnston said the applicant still had some questions about the site plan in general. He said the questions related to setbacks outlined in the general standards (§125-67 B. (3), on page 125:50). Mr. Johnston said the front of a building to the rear of a building is twice the front yard setback, which here would be 150 feet (2x75'). Mr. Johnston discussed what constitutes various setback-related terms as defined in the ordinance. He said the proposed building is approximately 80 feet away from an existing building on the property, and said he wanted to avoid a problem later. He outlined what his interpretation is, of what is front and side on this property and with these structures, and how he has applied that interpretation for this project. He said the language in the ordinance is difficult to navigate and apply: "Maybe it's clear when you read it, but you have to read it 100 times to understand what it's saying." He referred to a table of distances he had shown on the site plan. Mr. Johnston explained what he saw as the front and side faces of the building in question and the applicable setbacks, and asked for feedback from the board.

**Questions from applicant about front and side setbacks in relation to this project**

Chair St. Germain noted the board had encountered a similar situation recently, one in which a waiver was requested by the applicant. He recapped what Mr. Johnston had presented: that by drawing the lines as he had shown them, he could meet the requirements of the ordinance (without the request for a modification of standard, Mr. Johnston added in confirming that statement). Mr. Johnston identified the northeast corner of the new structure as the front face of the building, as it faces and is closest to the front (road-facing) line of the property. He explained how he made that determination. In response to a question from Mr. Fitzpatrick, Mr. Johnston said the distance between the new structure and closest existing structure was about 78 feet, as proposed.

Discussion continued. Board members asked for clarification of what Mr. Johnston wanted. He said he wanted the board to consider his interpretation that the side of the proposed building meets the appropriate setback to the rear of the closest existing building on the property, because of how they have designated the front of their proposed building (the face closest to the front lot line). Vice-chair Cough offered some thoughts on the matter, but said he wasn't ready to make a decision yet. Mr. Eleftheriou asked if staff had any thoughts. "If it was a square little lot with little squares on it, I think it would be clear," said Code Enforcement Officer Angela Chamberlain, noting that this situation did not involve such squares. "I think there's a way to make it work," said Planning Director Gagnon.

**Continued discussion between board, applicant's representative and staff on the matter of setbacks**

Board members spoke with Mr. Johnston about showing setback lines on his site plan. Mr. Fitzpatrick asked what effect it would have if the board took a different interpretation on side/front and made a determination that a 150-foot setback

between buildings was required. Mr. Johnston said the project would not work.

Vice-chair Cough asked about roads and related standards. He asked if it would be a private road, and Mr. Johnston said it would be. Mr. Johnston said the entrance would need to meet standards, but said as a private driveway he wants to narrow the rest of the travel way beyond that to 16 feet. He said such a two-way driveway would be allowed under ordinance.

Discussion of road  
and entryway

Mr. Johnston returned to the subject of building setbacks, and said other factors will be determined by the board's determination on that (i.e., whether to separate what is proposed as one building into two, which in turn would affect things like putting sprinklers in the building, etc.). Chair St. Germain said he saw this application as not being unlike the last one they had seen with this issue, and said he thought on the surface that the applicant was making a compelling argument. Mr. Eleftheriou asked for the corners of the building to be flagged, as reference points to the existing structures on the lot. Mr. Johnston said that would be done.

More discussion on  
setbacks

Mr. Weathersby spoke. He said the project is proposed as one building right now but said his preference would be to do two buildings. He said he thought that would be more marketable for him. In response to a question from the board, Mr. Weathersby said he could see condominiumizing the project, to allow at least part(s) of it to be sold for year-round occupancy. He reiterated his desire to separate the structure into multiple parts for better marketing opportunities. "That's a different application," said Mr. Fitzpatrick, drawing agreement from the board. Mr. Weathersby asked if the board would look upon such an application favorably. There was some discussion. Mr. Johnston said it will ultimately be a business decision for Mr. Weathersby.

Discussion on  
having two  
buildings, board  
says that would be a  
different application

There was more discussion about different applications. Mr. Weathersby said he would just be asking the board a favor, in that a separate application would take time and money. He said he did not want to pursue that option if he got a sense from the board that it would be a waste of his time. Vice-chair Cough said it was not the board's role to essentially judge whether something is a good business idea or not. He said the applicant could likely benefit from another meeting with staff, and to garner feedback that way. Staff indicated they were amenable to this.

Board compliments  
P. Weathersby on  
model of building

Mr. Eleftheriou said the model was the best visual of a project he had seen during his time on the board. Chair St. Germain asked for permission to take a photo.

**b. Completeness Review: LU-2019-01 – Amend Shoreland General Development II and Hulls Cove Business District Boundary Lines and Amend the Land Use Activities and Standards for the Shoreland General Development II District**

**Project location:** A portion of Bar Harbor Tax Map 224, Lot 022 (15 Ocean Avenue), the applicant's property; as well as all or part of the following additional parcels (owned by the applicant or one of its affiliated or subsidiary

Completeness  
Review for LU-  
2019-01 — Hulls  
Cove Zone Change  
proposal



companies, and listed in Map/Lot format): 223/11, 223/14, 224/1. All of the subject land is in either the Shoreland General Development II and/or Hulls Cove Business districts.

**Applicant:** Holiday Associates of Naples

**Application:** The applicant seeks to relocate the boundary of the Shoreland General Development II Zoning District inland across several parcels toward Eden Street. Additionally, the applicant seeks to have the following uses added to the list of allowed uses for the Shoreland General Development II Zoning District: Motel, Cabins, and Campground (Shoreland Districts), all of which would be allowed under Site Plan Review.

*[Note: Between the time that the agenda was prepared and this meeting took place, the applicant revised its application to seek to allow "Hotel (no more than 75 guest rooms)" instead of "motel". The original text is included above as that is what was shown on the agenda that was posted for public notice. — SEF]*

Eben Salvatore, of Holiday Associates of Naples, and applicant representative Perry Moore were present for this application. Vice-chair Cough said he had a potential conflict of interest, as he had used Mr. Moore as his representative on two different projects, a subdivision that the board has begun its review of and another project which may or may not rise to Planning Board level. None of the board members said they had any concerns. Vice-chair Cough asked them to vote on it, to make their non-concern official. **Mr. Fitzpatrick moved that the board has no findings or concerns with member Cough's potential conflict of interest.** Vice-chair Cough also asked the board to ask the applicant if he had a concern. Mr. Salvatore said he had no concerns. **Mr. Eleftheriou seconded Mr. Fitzpatrick's motion, and without further discussion it carried 3-0 (Vice-chair Cough did not vote on the motion).**

Mr. Salvatore noted the Park Entrance motel property was purchased 18 years ago at auction. He said the concepts envisioned for the site have always been smaller scale, such as cabin and campgrounds, rather than just a large hotel. He said the intent of the application is to clearly allow the uses the applicant intends to pursue. He noted there is vagueness in the definition of "campground (shoreland districts)", with its language about "other shelters" and said he didn't want that vagueness to be a point of contention. By adding a definition for cabins, for example, "the purpose was to not try to use the definition of 'campground' to achieve everything we wanted." He said the property lines in place help illustrate why the zone change line is proposed the way it is. Mr. Salvatore said the uses being looked at would be located closer to the water, so that is another reason from the applicant's perspective that the line makes sense.

Mr. Salvatore said they would likely be back with a site plan before June 2020 to help illustrate for the public what exactly is being looked at. He said the applicant is excited about Acadia National Park's plans for Hulls Cove and for transportation, and thinks that this project would tie-in well with those changes.

**Application has changed since agenda was prepared (now hotel, instead of motel)**

**E. Salvatore and P. Moore present application to the board**

**J. Cough discloses potential conflict of interest; board moves to find it has no concern with this APPROVED: 3-0**

**Salvatore recounts history of and vision for the property**

**Discussion of uses**

**Explanation of why zone change line is proposed as it is**

**Discussion of future of the subject site**

Mr. Moore spoke. He said Mr. Salvatore's comments about multiple plans should not be construed as that there is a plan in place. "This application is a request to get the ball rolling on how we amend that district and the location of that district so that we can move forward on developing that property," said Mr. Moore.

Vice-chair Cough spoke first for the board. He expressed concern that the proposed maximum footprint size of a cabin combined with the height allowance in the district could mean a cabin with 6,000 square feet of floor space. He said he envisioned cabins as smaller. Vice-chair Cough said he loved the concept overall and thought it was a great idea. Mr. Salvatore said there was no intent to have a four-story cabin, and would be open to amending the definition to limit a cabin to one story. Mr. Eleftheriou asked where the 1,500 square foot figure came from and Mr. Moore explained. Mr. Moore said the vision of cabins and cottages seems to fit with what the comprehensive plan calls for in Hulls Cove. He also said the State Historic Preservation Office had previously weighed-in in favor of seaside cabins as part of the unique Maine coastal experience.

**Concern from board about proposed upper limit on size of cabins**

Vice-chair Cough said he thought it would take some time to go through the proposal. In response to a question from Vice-chair Cough, Mr. Salvatore said no dimensional standard changes were proposed. Mr. Moore noted that cabin was previously defined in the ordinance, and he read the previous definition. Mr. Salvatore said that definition was likely too broad, and that looking at that informed their work on this proposal. Discussion ensued on what constitutes a cabin. Chair St. Germain said it would be wise to avoid inadvertently making current cabins non-conforming.

**Discussion on cabins in general, and definitions thereof**

CEO Chamberlain said the proposed definition for cabin was in direct conflict with the definition of "dwelling unit (shoreland districts)" because that existing definition says it shall include "rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented." She thought the Maine Department of Environmental Protection would likely take issue with the applicant's proposed definition, and echoed Chair St. Germain's earlier point about existing cabins and conformity issues. She expressed concern about adding one more layer to the existing definitions for various types of transient accommodations. Discussion ensued on the subject of campgrounds and what constitutes a campground. Mr. Moore said he did not think the state-mandated definition of campground in a shoreland district was a good fit for Bar Harbor.

**Cabins in relation to dwelling units**

**What will the DEP think of this proposal?**

Mr. Salvatore reiterated his desire to call cabins what they are and not try to shoehorn them in to the existing "campground (shoreland districts)" definition as "other shelters". CEO Chamberlain said something could perhaps be added to that existing definition to accomplish what the applicant wanted to do. Planning Director Gagnon expressed concern about the 75-room cap for hotels in the Shoreland General Development II district proposed as part of this application. Mr. Salvatore said they could build up to 150 rooms at present, but that it was not

**More discussion about uses, definitions and what is best way for applicant to achieve overall goal**

the applicant's preference to go that high.

In response to a question from Mr. Eleftheriou, Mr. Salvatore said the applicant's preference is for future development to be located away from Route 3, buffered by the existing knoll and closer to the water. Mr. Moore said that difference in location makes for an entirely different experience for the visitor. There was a discussion of what properties the applicant owns. Mr. Moore asked questions relating to the "campground (shoreland districts)" and "dwelling unit (shoreland districts) definitions, and asserted that they are contradictory as they stand now. CEO Chamberlain said she did not think a 1,500-square-foot cabin would pass the straight-face test as an "other structure" under the former definition. Mr. Salvatore said they were trying to avoid an argument over that point. Discussion continued. CEO Chamberlain said her primary issue was the proposed size cap of 1,500 square feet.

CEO Chamberlain asked what the difference between cabins and cottages are. "Well, this town certainly has a different definition for cottage, historically" said Chair St. Germain, to laughter from those in attendance. CEO Chamberlain said it should be called transient accommodations, rather than creating new layers.

**More discussion  
on definitions**

Chair St. Germain noted campgrounds have minimal regulations and asked if that was the best route for the applicant to pursue. CEO Chamberlain said allowing campgrounds and amending the definition seemed like the easiest option at the outset. She agreed with Mr. Salvatore that definitions need attention. Chair St. Germain asked about existing, grandfathered cabins in operation nearby, and asked again if this new definition of cabin was approved if it might cause problems with the DEP. The applicant and his representative responded and said they should check on this. There was a discussion on cabins, and cottages in general. Mr. Moore asked if this area could be classified as Shoreland General Development IV. Mr. Fitzpatrick said he thought the underlying issues would remain if that were done.

Planning Director Gagnon framed what she saw as the underlying question: whether the board would look favorably upon allowing some type of transient accommodation and some type of campground use in that zone (Shoreland General Development II), so that the applicant can operate as they wish to. The applicant was in general agreement; Planning Director Gagnon said the question that remained, then, was how to make it work. She recommended the applicant continue working on the proposal based on the comments heard at the meeting. She said another question was whether this proposal was ready for a public hearing. She said another hour's worth of discussion was unlikely to be helpful.

**Planning Director  
Gagnon frames the  
overall question**

Mr. Salvatore said the word cabin is in the ordinance in multiple places and is not defined. He said adding a definition would be best for Bar Harbor. He said he was not opposed to adding the term "single-story," and that he was amicable to reducing the maximum size of a cabin. He reiterated this would be beneficial.

**Applicant is willing  
to change proposal**

Mr. Moore weighed-in on the matter, and suggested meeting with DEP staff to address environmental issues. Planning Director Gagnon said staff is generally supportive of the proposal, but had a concern that the proposed definition would possibly add complexity. She voiced support for amending existing definitions. There was a discussion of what the time frame requirements were going forward.

**Staff has concern about adding complexity to an already complex land use ordinance**

Mr. Fitzpatrick mentioned possible ways to address potential concerns the DEP might have. Vice-chair Cough offered comment on the DEP, as well.

Chair St. Germain asked if other members shared his concern about limiting the number of hotel rooms to 75, as mentioned by Planning Director Gagnon. Mr. Fitzpatrick said he did have that concern. He said adding another asterisk to the ordinance only creates a mess. Mr. Salvatore made a counter-argument. Chair St. Germain asked what effect the cap might have on other property owners in the district looking to build a hotel. Mr. Salvatore said no one else has enough room to build a hotel that large, and said he was also looking to head-off concerns from citizens that the applicant is looking to build a 200-room hotel. "The only purpose of putting the 75-room number in there in the first place is to have something to point to and say, 'No, we're not,'" said Mr. Salvatore. Mr. Moore said not having an upper limit in place would likely prove a poison pill with voters. Vice-chair Cough suggested possibly putting a cap on the total number of transient-accommodation type units in place. Mr. Salvatore said "the hotel size is what gets people excited," rather than the size of a campground, for example.

**Discussion on number of rooms and what concerns the public will have**

Mr. Fitzpatrick asked if the definition of "hotel" in the ordinance now has an upper cap on the number of rooms that can be built. The answer was no. A discussion ensued about various uses in various zones. Planning Director Gagnon said the questions would not be resolved that night. She said the application was complete, from her perspective, and that she understood what the applicant wanted. Discussion followed between her, the applicant and the applicant's representative. Chair St. Germain summarized: "I think that's what being said is that your application is complete; should you chose to push forward, that you have some work to do in order to make the choice apparent in the future, and that that choice isn't going to be determined tonight — there are too many things up in the air." Mr. Moore outlined a possible route to pursue, involving working with DEP to change the definition of "dwelling unit (shoreland districts)". CEO Chamberlain said she did not think DEP would be receptive to that idea. Vice-chair Cough said he would welcome a conversation with DEP on the overall subject. There was more discussion on this subject.

**Discussion on what route the applicant should pursue going forward with this**

Mr. Salvatore said the whole matter could be sidestepped by calling what they build vacation rentals or accessory structures to permitted uses. "This isn't the only door we can walk through," said Mr. Salvatore, of the current proposal. Chair St. Germain asked if the board was inclined to find the application complete. Mr. Salvatore said he wanted to hammer out the wording further. He said he didn't want to spend two weeks working on something the board did not

**E. Salvatore outlines other options the applicant can pursue**

like. A back-and-forth ensued between Mr. Salvatore and Chair St. Germain. Mr. Salvatore said he did not believe it needed to be complicated; he said his preference was to “take very simple words and make them mean very simple things and have what we bring to you be a conforming project.” Mr. Moore floated a possible alternative idea, which Mr. Salvatore was not receptive to.

Mr. Fitzpatrick said he did not think anyone on the board had an issue with adding campground as an allowed use. He said he did not think anyone had an issue with adding hotel as an allowed use, either, although there was concern on the cap on the number of rooms. He said the third issue is whether cabins would be allowed. Mr. Moore said the issue is whether cabins constitute dwelling units. Mr. Fitzpatrick said the DEP needs to weigh-in on whether this proposal is OK. Mr. Salvatore outlined what he saw as some possible options on this matter. Discussion continued.

Vice-chair Cough said he liked the idea of going through transient accommodations definitions. He said if it were him, he would look at creating a new definition of TA-9 and setting a maximum of 75 rooms for that new use.

Mr. Fitzpatrick said there was nothing that would cause him not to find the application complete. Chair St. Germain said the board could find it complete and schedule it for a public hearing with the understanding that the applicant has some work to do to refine its proposal. Mr. Fitzpatrick said that would be guidance, not a condition. Mr. Eleftheriou said he would be careful when reworking the plan and would listen to staff about definitions, in particular.

**Mr. Fitzpatrick moved to find application LU-2019-01 complete as submitted, which was seconded by Vice-chair Cough. There was no further discussion, and the motion carried unanimously (4-0).**

**Mr. Fitzpatrick moved to schedule a public hearing [for LU-2019-01] for January 8, 2020. This motion was also seconded by Vice-chair Cough. There was no further discussion, and that motion also carried unanimously (4-0).**

## **VII. OTHER BUSINESS**

**a.) Update on, and consideration of scheduling public hearings for, the following proposed LUO amendments:**

- i. Replacing “municipal tax assessor” with “assessing officer,” under site plan review, to align with recently approved Addressing Ordinance**

Assistant Planner Steve Fuller noted that this proposal was the same as the board had seen previously. There was no discussion on the matter.

Chair St. Germain said the board could likely vote to schedule public hearings for this proposal and the multifamily proposal, if they so choose (both on January 8), but that he understood there might be a need for a special Planning Board meeting the following week to address the employee living quarters and shared

**J. Fitzpatrick frames the issues as he sees them with the application**

**J. Cough floats idea of creating TA-9, allowing up to 75 rooms**

**Board members discuss where things stand**

**Find application LU-2019-01 as complete:  
APPROVED (4-0)**

**Schedule public hearing for LU-2019-01 for 1/8/20:  
APPROVED (4-0)**

**Review of proposed LUO amendments, discussion on scheduling public hearings on them**

**Nothing new on addressing officer**

**Discussion of need for special meeting**

accommodations proposals.

**ii. Changing the level of review for Multifamily I dwellings from site plan to Code Enforcement Officer**

CEO Chamberlain noted some other changes she had made to this proposal since the last time the board saw it. Specifically, those related to multifamily uses in the Shoreland Maritime Activities district. She and Planning Director Gagnon explained why the changes were made, and how they related to the employee living quarters proposal. Essentially, the change would be to remove multifamily dwelling I and multifamily dwelling II uses from the Shoreland Maritime Activities district. The hope is that the ELQ proposal will pass as an allowed use in that zone and that it will be a better fit than multifamily for employee housing.

CEO Chamberlain noted two other changes: in the Village Historic district, two-family dwellings were allowed with site plan approval and she changed it to CEO. In Shoreland General Development II (Hulls Cove), multifamily dwelling I and II are already allowed, while single-family homes were only allowed with site plan review and two-family dwellings were not allowed. She changed her proposal to allow both single-family and two-family dwellings by CEO review.

Mr. Fitzpatrick asked Planning Director Gagnon to put the same language in the ELQ proposal as CEO Chamberlain put in the multifamily proposal, relating to the Shoreland Maritime Activities district (and removing multifamily dwelling I and II as allowed uses there). Staff agreed that would be a good idea.

**iii. Creation of new uses Employee Living Quarters and Shared Accommodations in certain zoning districts**

Planning Director Gagnon said she would go through these, but still wanted to meet next week. "To just make sure we have it right," she said. She said she did not want to be wordsmithing at the Town Council meeting. She explained part of the timeline going forward for these proposed LUO amendments.

She reviewed the following changes to the ELQ proposal:

- On page 5 of 46, in the Mount Desert Street Corridor district, moving ELQ to the end of D. (2) – Principal uses allowed by major site plan.
- On page 7, in the Village Residential district, under D. (2), it limits ELQ and other conditional uses to properties with frontage on or access to or Route 3 or 233. She said that would prohibit grandfathered uses elsewhere in the district from taking advantage of the new ELQ use. She said she wanted to move it out, separately, to not limit it to certain areas.
- On page 7, in G. (1), Planning Director Gagnon said CEO Chamberlain was uncomfortable with the wording as proposed. She proposed changing it by leaving the existing language in place, but then adding a new sentence at the end that would make it clear ELQs would be exempt from the requirement.
- On page 30, in the Town Hill Residential district, Planning Director

**Discussion on multifamily dwelling proposal**

**CEO A. Chamberlain reviews proposal, explains what the changes**

**J. Fitzpatrick wants this and ELQ proposal to mirror each other w/ regard to multifamily changes in Maritime Activities district**

**Discussion on employee living quarters and shared accommodations proposals**

**Planning Director Gagnon reviews the changes to the ELQ proposal since the last time the board reviewed it**

Gagnon said there was a similar issue as was found in Village Residential (specific geographic parameters). She proposed pulling it out of the section relating to TAs and making it available to the whole district, to allow grandfathered uses outside of that geographic area to have an ELQ.

- On page 41, in the Shoreland Maritime Activities district, multifamily dwelling I and multifamily dwelling II have been removed. This will remain the same going forward, per the discussion earlier in this section of the agenda (the comments from Mr. Fitzpatrick).
- On page 43, under W. (1) Design, replacing “abutter” with “abutting property”, and “rear” instead of “back” lot lines (both to match existing terms used elsewhere in the ordinance). In (2), Setback requirements, replacing “than” with “as.” In (3), adding “total” in front of where “floor area” is used. Mr. Fitzpatrick asked why it would not be “gross floor area.” Staff said it was because that term includes all the floors, rather than just the footprint area. Mr. Fitzpatrick asked that it state “plan floor area,” so that it captures just the footprint in relation to lot coverage. Discussion continued, and staff said they would work out something.
- Also on page 43, W. (4)(b), take out the word “meeting” in front of “the lot coverage requirements” language. In (4)(c), Planning Director Gagnon recapped previous discussion on this topic. She said it still needed more work, prior to the next meeting. In (5), Change of Use, add the words “of use” after “change” and in front of “from”. Also, at the end of that sentence, to add “including lot density bonus (lot coverage requirements)”. She said this was to make sure the message was clear.
- On page 44, remove “based on maximum occupancy” in W. (7). Also in that item, replace “plane” with “horizontal.”
- Also on page 44, in the definition of employee living quarters, say “A use in an accessory structure,” rather than “An accessory use in an accessory structure.” Planning Director Gagnon said this would result in consistency, as ELQ as proposed is listed as a principal use in places.

Planning Director Gagnon said those changes could be incorporated into the document in short order. Vice-chair Cough asked if the changes could be highlighted in a different color, to make it clear where they are.

In the shared accommodations proposal, Planning Director Gagnon said the only changes proposed were on page 31 of 36, in §125-69 Y. Those are removing “based on maximum occupancy,” and replacing “plane dimensions” with “horizontal dimension.” CEO Chamberlain explained why “based on maximum occupancy” was removed: maximum occupancy is determined by square footage, and not the other way around.

Chair St. Germain indicated he would entertain public comment. Donna Karlson spoke and said she thought the original intent was to keep workforce/seasonal/temporary housing out of residential areas and to stop the disappearance of year-round housing. She said some districts, including Village

**Planning Director Gagnon continues review of changes to the ELQ proposal since the last time the board reviewed it**

**Changes can be put in new version quickly, color-coded**

**Planning Director Gagnon outlines change to Shared Accommodations proposal**

**Public comment period, D. Karlson speaks**

Residential, were added to the proposal and that it did not make sense to her. She asked for clarification on the changes just outlined by Planning Director Gagnon (which Planning Gagnon Director went on to do after she finished speaking, with assistance from CEO Chamberlain who noted that the geographic location of ELQs was not limited in any other district, under this proposal).

Ms. Karlson also offered a comment. She said the way she understands ELQs and SAs has gone from being a small, thoughtful, contained concept eyed for certain districts in commercial areas to a concept that was spread out across the town. She said she had heard a concern about year-round, family housing in neighborhoods being preserved (at earlier public meetings). She also noted how close certain zones are to one another in the downtown areas.

There was discussion on when the board could hold a special meeting the following week. There was consensus that Tuesday, December 10 at 4 PM worked best for board members. **When Chair St. Germain said the board needed to create a special meeting for December 10, at 4 PM, Vice-chair Cough made a motion to that effect. Mr. Fitzpatrick seconded the motion and it then carried unanimously (4-0) without discussion.**

Chair St. Germain asked if the board would schedule public hearings for the two items that can be scheduled for Wednesday, January 8, 2020, those being the addressing officer proposal and the multifamily dwelling I proposal. Vice-chair Cough made a motion to that effect, seconded by Mr. Fitzpatrick. Without discussion, the motion then carried unanimously (4-0).

**b.) Calendar/meeting schedule for 2020**

Vice-chair Cough moved to approve the [2020 Planning Board meeting schedule] calendar as submitted. That motion was seconded by Mr. Fitzpatrick, and without discussion it carried unanimously (4-0).

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

None.

**IX. ADJOURNMENT**

At 7:10 PM, Vice-chair Cough moved that the board adjourn the meeting. Mr. Eleftheriou seconded the motion, and it then carried unanimously (4-0).

Minutes approved by the Bar Harbor Planning Board on January 8, 2020:

|      |   |
|------|---|
| Date | Basil Eleftheriou Jr., Secretary<br>Bar Harbor Planning Board |
|------|---|

**D. Karlson  
objects to nature  
of the proposal**

**Board to hold  
special meeting on  
Tuesday, Dec. 10:  
APPROVED (4-0)**

**Schedule public  
hearings for Weds.,  
January 8, 2020 for  
addressing officer  
and multifamily:  
APPROVED (4-0)**

**Approve 2020  
meeting schedule:  
APPROVED (4-0)**

**No comments or  
suggestions for the  
next meeting agenda**

**Meeting adjourns at  
7:10 PM**



**Bar Harbor Planning Board  
Special Meeting  
Tuesday, December 10, 2019 — 4:00 PM  
Council Chambers – Municipal Building  
93 Cottage Street in Bar Harbor**

**I. CALL TO ORDER**

Chair Tom St. Germain called the meeting to order at 4:01 PM.

**Call to order  
at 4:01 PM**

Members present were Chair St. Germain, Vice-chair Joe Cough, Secretary Basil Eleftheriou Jr. and Member John Fitzpatrick. Member Erica Brooks was absent.

**Four board  
members present**

Town staff present were Planning Director Michele Gagnon and Assistant Planner Steve Fuller.

**Two town staff  
members present**

**II. ADOPTION OF THE AGENDA**

**Mr. Fitzpatrick made a motion to adopt the agenda, seconded by Vice-chair Cough.** Mr. Eleftheriou noted that the minutes listed on the agenda (those from the meeting of December 4, 2019) were not available yet. As such, Mr. Eleftheriou said agenda item 5 should be removed. **Mr. Fitzpatrick then withdrew his original motion, and made a new one: to accept the agenda as submitted, excepting and removing item number 5, approval of the minutes.** Vice-chair Cough seconded the motion, which then carried unanimously (4-0) with no further discussion.

**Agenda adopted,  
with removal of  
approval of minutes  
from Dec. 4 meeting**

**III. EXCUSED ABSENCES**

**Mr. Fitzpatrick made a motion to excuse the absence of Ms. Brooks.** Mr. Eleftheriou seconded the motion, which then carried unanimously (4-0).

**Board excuses  
absence of E. Brooks**

**IV. PUBLIC COMMENT PERIOD**

Carol Chappell said she might have one or more questions or comments after the board's upcoming discussion on employee living quarters, and asked for the chance to speak after that discussion.

**C. Chappell asks for  
chance to speak  
after board talks**

**~~V. APPROVAL OF MINUTES~~**

This item was removed from the agenda, as noted in agenda item 2 above.

**Removed from  
agenda (see above)**

**VI. REGULAR BUSINESS**

- a. Update on, and consideration of scheduling public hearings for, the following proposed LUO amendments:**

- i. Creation of new use, Employee Living Quarters, in certain zoning districts**

Chair St. Germain asked staff to provide an update of edits that were made since the board's last meeting on December 4 with regard to employee living quarters (ELQs). Planning Director Michele Gagnon began by noting she had not yet written an explanation to go with the amendment but was working on it. She said

**Discussion of  
proposed LUO  
amendment for  
Employee Living  
Quarters**

**Planning Director  
Gagnon explains**

on page 5 of 49, in the Mount Desert Street Corridor district, ELQ was moved into the list of principal uses allowed by major site plan. On page 7 of 49, in the Village Residential district, she noted that ELQ was broken out under uses allowed by conditional use permit as D. (2) (b), so that it was no longer tied to the geographic requirements of needing to have “road frontage on or access to Route 3 or 233”.

Assistant Planner Steve Fuller noted that the change in Village Residential was made in recognition that there may be existing (non-conforming under the rules in place today, but grandfathered) uses within Village Residential that fall outside of the geographic parameters identified above with regard to routes 3 and 233, and which could take advantage of the new ELQ use. Planning Director Gagnon noted ELQ would remain under conditional use permit in that particular district.

Planning Director Gagnon talked about another change in that district, which was exempting ELQs from the requirement that accessory structures be located in the side and rear yard of a property. She said the feeling was that ELQs should not be limited in that way with regard to placement. She said because ELQs will be on-site with another structure or facility, a property owner constructing an ELQ is more likely to be prudent about how it looks and ensuring that it fits in.

The next change highlighted by Planning Director Gagnon was on page 31 of 49, in the Town Hill Residential district. Much like in Village Residential, the ELQ use was removed from a section that tied it to specific geographic parameters and placed in a section that would allow it anywhere in the district (for the same reasons as was done in Village Residential). Gagnon also noted that in a previous version, ELQ had been tied to specific uses (TAs and campgrounds), but that it was now separated and so could be allowed with other uses besides those two types. It could now serve any allowed uses as well as any grandfathered uses.

Mr. Fitzpatrick asked a question about listing an ELQ separately, rather than having it as an “appendage” to another use. He asked about accessory use versus primary use. Planning Director Gagnon read the definition of ELQ. Mr. Fitzpatrick asked if breaking ELQ out separately implied that it was a primary use. Discussion ensued. Planning Director Gagnon said an ELQ can be a principal use but is an accessory structure. Staff noted that earlier language about ELQ being an accessory use had been removed earlier. Mr. Fitzpatrick asked for clarification: could someone come in, buy a vacant two-acre lot, clear it, build a housing structure, and call it an ELQ without having a principal use on site that it’s tied to? No, said Planning Director Gagnon. Mr. Fitzpatrick wanted to make sure this was very clear. He said he wanted to make sure there was no loophole that would allow an ELQ to be dropped as a standalone use on a property. Others noted the language about accessory structure, and said that seemed to ensure the scenario above could not happen. Mr. Fitzpatrick asked for a fresh set of eyes to review the language just to make sure his concern was addressed. Planning Director Gagnon said it would be sent to Town Attorney Ed Bearor for review.

**Discussion of changes in specific zoning districts**

**Assistant Planner Fuller explains why change was made in Village Residential**

**Planning Director Gagnon explains change regarding location of ELQs in Village Residential**

**Changes in Town Hill Residential district explained**

**Long discussion about how to ensure that ELQs do not pop up as a standalone use (only item on an otherwise vacant parcel, etc.)**

Discussion continued. Chair St. Germain read from the definition of accessory structure, which states in part that an accessory structure must be “located on the same lot as the principal structure or use served, except as otherwise expressly authorized by the provisions of this chapter.” Planning Director Gagnon noted that is one of several requirements which must all be met. Chair St. Germain said he understood Mr. Fitzpatrick’s concern but said he thought it was addressed. There was further discussion. Planning Director Gagnon said she could perhaps simply add language to the definition stating an ELQ cannot be a principal use.

**Discussion about protections already included in existing definitions, such as that for accessory structure**

Planning Director Gagnon identified changes made on page 45 of 49, which were highlighted in pink on paper copies provided to the board. Among those changes were language relating to ground floor area (a new term that had to be defined for the ordinance). She said other similar terms in the ordinance were not sufficient. Mr. Fitzpatrick suggested tying it back to the definition of footprint area, which is how lot coverage is calculated. Planning Director Gagnon said the issue she saw with that definition is that it speaks about the total area of a site. She spoke about what was not included in the definition of ground floor area, and said the idea is to exclude things that do not create bulk.

**Discussion of term “ground floor area”**

Discussion ensued about the definitions of various words, and the difference between open and closed spaces (i.e., porches). Mr. Fitzpatrick said his feeling is that if the sun is directly overhead, anything that it casts a shadow on (out to the dripline edge of the roof) should be considered lot coverage. Vice-chair Cough agreed. Chair St. Germain noted there are buildings in town where the eave of the roof extends well beyond the exterior wall of a structure. Vice-chair Cough said a cantilevered wall could also cause an issue using the definition as proposed. There was discussion of using the term “building area” instead of “ground floor area” and also of using the term “footprint area”. Consensus was eventually reached to modify the new definition to incorporate language from the “footprint area” definition.

**Board has concerns that new term does not capture exactly what is intended; discussion of other terms to maybe use and then consensus**

Planning Director Gagnon referred to language on the bottom of page 45 and top of page 46, relating to density bonus (lot coverage) and change of use. The board was satisfied with changes made to this language since the last time they had seen it on December 4. She outlined other changes made on page 46 since that time, including to the definition of employee living quarters itself.

**Recap of remaining changes in ELQ proposal**

## **ii. Creation of new use, Shared Accommodations, in certain zoning districts**

Discussion shifted to the proposal for Shared Accommodations (SAs). Planning Director Gagnon said a change was made on page 35, using the words “horizontal dimension” instead of a term that was used earlier. The phrase “based on maximum occupancy” was also removed from that section (125-69 Y.).

**Discussion of proposed LUO amendment for Shared Accommodations**

Mr. Eleftheriou asked about adding an explanation to the proposal. He said an abridged version of the presentation that Planning Director Gagnon has given

**Discussion of adding explanation**

throughout the fall might serve well for that purpose (explaining the proposal).

At 4:46 PM, Chair St. Germain opened the floor up to public comment. Carol Chappell spoke first. She said she had been concerned that ELQs might be built on sites without primary structures, but said she got the sense the board agreed there needed to be a primary structure for an ELQ to be put in place. As such, she said she had no further questions.

Donna Karlson spoke next. She said she still did not see how residential districts were being protected from ELQs and SAs. She said her belief was that the ELQ proposal had expanded from primarily commercial areas to other parts of town including Town Hill Residential and Village Residential, the latter being the district she lives in. She asked why Ireson Hill Residential was not included, or Shoreland General Development IV. She said she did not see the rhyme, reason or logic to this proposal. She said the plan was “expanding almost every week.”

Planning Director Gagnon responded to a concern Ms. Karlson voiced about Design Review Board review. She then spoke about Ms. Karlson’s concern about how districts were selected for inclusion on the proposal, and explained how districts were picked (focusing mainly on the SA use). Assistant Planner Steve Fuller spoke about ELQs, and said there were three zones added in to the proposal in November. He noted that was done after doing a top-to-bottom look at all districts and seeing which ones allowed for uses that might be naturally inclined to take advantage of the ELQ use. He noted there was one round of additions. Chair St. Germain also spoke and responded to concerns raised by Ms. Karlson. He said the presence or absence of town sewer service in Village Residential really controls a lot of the development decisions there.

Erin Cough spoke next, noting that she was speaking as a resident (not as a town councilor). She said she had “tons of questions” about the original proposal, which preceded this version, but said this was a totally different situation. She said she was very comfortable with this present proposal, and thanked those involved for the “phenomenal” amount of work that went into it. Chair St. Germain then closed the public comment period at 4:59 PM.

**Mr. Fitzpatrick moved to schedule a public hearing for the proposed Land Use [Ordinance] amendment change relating to employee living quarters for January 8, 2020. Vice-chair Cough seconded the motion. There was a brief discussion about when changes discussed at the meeting could and would be made. Planning Director Gagnon explained the time frame. The vote in favor of Mr. Fitzpatrick’s motion was then unanimous (4-0).**

**Mr. Fitzpatrick moved to schedule a public hearing for the proposed Land Use [Ordinance] amendment relating to shared accommodations for January 8, 2020. Vice-chair Cough also seconded that motion, and then without discussion it carried unanimously (4-0).**

**Public comment  
opens at 4:46 PM**

**C. Chappell says her  
concern on ELQs  
has been addressed**

**D. Karlson speaks,  
with multiple  
concerns: how were  
districts selected?  
Other issues, too.  
Says no rhyme or  
reason to proposal**

**Planning Director  
Gagnon and  
Assistant Planner  
Fuller respond to D.  
Karlson comments  
and concerns; Chair  
St. Germain also  
responds**

**E. Cough, speaking  
as resident, voices  
strong support for  
these proposals**

**Motion to schedule  
ELQ proposal for  
public hearing on  
January 8, 2020:  
APPROVED (4-0)**

**Motion to schedule  
SA proposal for  
public hearing on  
January 8, 2020:  
APPROVED (4-0)**

### **VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

There was discussion of scheduling a site visit/neighborhood meeting for a subdivision sketch plan application submitted by Paul Weathersby, for a project in Town Hill. The board reviewed the sketch plan application for this project at its December 4 regular monthly meeting, and at that time voted to direct staff to schedule both a site visit and neighborhood meeting for the project.

Assistant Planner Fuller mentioned the idea of holding it on Monday, December 30, noting that it worked for both the applicant and his representative. Chair St. Germain and Mr. Eleftheriou said the date was fine with them, Mr. Fitzpatrick said he was unavailable and Vice-chair Cough said he was unsure and did not want to commit yet. Assistant Planner Fuller said he would keep board members informed and updated by email.

### **IX. ADJOURNMENT**

At 5:04 PM, Mr. Fitzpatrick moved that the board adjourn. Vice-chair Cough seconded the motion, and it then carried unanimously (4-0).

**Minutes approved by the Bar Harbor Planning Board on January 8, 2020:**

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|             |   |
|-------------|---|
| <b>Date</b> | <b>Basil Eleftheriou Jr., Secretary<br/>Bar Harbor Planning Board</b> |
|-------------|---|

**Discussion about scheduling site visit for Paul Weathersby subdivision proposal in Town Hill on Monday, Dec. 30**

**Meeting adjourns at 5:04 PM**

# Draft Order

## of the Bar Harbor Town Council

### For the June 9, 2020, Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

---

### Warrant Article

Article **XX** LAND USE ORDINANCE AMENDMENT — Addressing Officer – Shall an ordinance, dated December 16, 2019 and entitled “An amendment to Article V, Site Plan Review, to use the term Addressing Officer in place of Municipal Tax Assessor” be enacted?

---

### Addressing Officer

An amendment to Article V

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## Chapter 125 , LAND USE ORDINANCE

### Article V. Site Plan Review

#### § 125-66 Submission requirements

- K. Assessor's certification of street names. Written certification of the ~~Municipal Tax Assessor~~ Addressing Officer (as defined in Chapter 5, §5-5) that the proposed street names for proposed streets in the development comply with all requirements for the enhanced 911 system.

\*\*\*

**§ 125-67 General review standards**

**G. Streets, sidewalks and access.**

**(4) Names.**

(b) No plan shall be approved unless the Planning Board finds that the **Municipal Tax Assessor Addressing Officer (as defined in Chapter 5, §5-5)** has issued written certification that proposed street names for proposed streets in the development comply with all requirements for the enhanced 911 system.

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**EXPLANATION:**

The replacement of the words "Municipal Tax Assessor" with the words "Addressing Officer" updates the Land Use Ordinance and aligns it with language used in Chapter 5 (Addressing Ordinance) of the town's Municipal Code (which took effect November 14, 2019).

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Given under our hands and seal at Bar Harbor this **XXXX** day of **XXXX**, 2020.

**Municipal Officers of the Town of Bar Harbor**

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Jefferson Dobbs, Chair

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Matthew A. Hochman, Vice Chair

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Gary Friedmann

---

Joseph Minutolo

---

Stephen Coston

---

Erin E. Cough

---

Jill Goldthwait

# Draft Order

## Of the Bar Harbor Town Council

### For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot.

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### Warrant Article

Article **XX** LAND USE ORDINANCE AMENDMENT – Permitting Authority for Certain Residential Uses in Certain Districts, Adding a Use in the Shoreland General Development II District, and Removing Uses in the Shoreland Maritime Activities District – Shall an ordinance, dated December 16, 2019, and entitled “An amendment to change the level of permitting for multifamily dwelling I uses from the Planning Board to Code Enforcement Officer (CEO) in 22 specific districts; address an inconsistency in the Land Use Ordinance by making the CEO the permitting authority for two-family dwellings in the Village Historic district; change the level of permitting for single-family dwellings in the Shoreland General Development II district from Planning Board to CEO; add two-family dwellings as an allowed use in the Shoreland General Development II district with permitting by CEO; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities district,” be enacted?

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Permitting Authority for Certain Residential Uses in Certain Districts,  
Adding a Use in the Shoreland General Development II District,  
and Removing Uses in the Shoreland Maritime Activities District

#### An amendment to Article III

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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## Chapter 125 , LAND USE ORDINANCE

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### Article III. Land Use Activities and Standards

#### § 125-17 Bar Harbor Gateway

\*\*\*

##### C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio; child care family; gallery; government facility; home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); multifamily dwelling I; municipal facility; municipal school; public or private park with minimal structural development; vacation rentals; single-family dwelling and two-family dwelling.

\*\*\*

##### D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

#### § 125-18 Village Historic

\*\*\*

##### C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: home occupation; public or private park with minimal structural development; multifamily dwelling I; vacation rentals; single-family dwelling, two-family dwelling; noncommercial greenhouse, and government facility/use.

\*\*\*

##### D. Uses allowed by site plan.

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard

Commercial fish pier

Commercial stable

Employee living quarters

Ferry terminal

Hospital

Light manufacturing/assembly plant

Marina

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Parking lot

Recreational boating facility

Research facility

Research production facility

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Wireless communications facility

\*\*\*

§ 125-31 Ireson Hill Corridor.

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Campground

**Employee living quarters**

Mineral extraction

Mineral extraction and processing

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Parking lot

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Warehousing or storage facility

Wholesale business establishment

Wireless communications facility

\*\*\*

**§ 125-40 Salisbury Cove Village.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Eleemosynary, educational or scientific institution

**Employee living quarters**

Marina

Multifamily dwelling I

Place of worship

Road construction

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Wireless communications facility

\*\*\*

**§ 125-43 Town Hill Business.**

\*\*\*

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Automobile repair garage

Automobile sales lot

Automobile service station

Bank

Campground

Commercial boatyard

Eleemosynary, educational or scientific institution

**Employee living quarters**

Food processing and freezing (excluding slaughterhouse)

Food processing and freezing

Hospital

Light manufacturing/assembly plant

Mobile home park

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Newspaper or printing facility

Parking garage and parking lot

Research facility

Research production facility

Road construction

Terminal yard and trucking facility

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

Upholstery shop

Warehousing or storage facility

Wholesale business establishment

Wireless communications facility

\*\*\*

**§ 125-45 Town Hill Residential.**

\*\*\*

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Agriculture, commercial

Campground

Cemetery

Commercial stable

Employee living quarters

Marina

Mobile home park

Multifamily dwelling I

Municipal facility and grounds

Municipal school

Place of worship

Road construction

Transient accommodations (TA-1)

Wireless communications facility

\*\*\*

**§ 125-47 Shoreland General Development I.**

\*\*\*

- D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Cocktail lounge

Commercial fish pier

Commercial structure

**Employee living quarters**

Essential services accessory to a permitted use or structure

Ferry terminal

Gift shops

Marina

Multifamily dwelling I

Multifamily dwelling II

Municipal facility and grounds

Recreational boating facility

Road construction

Ships chandlery

Transient accommodations (TA-2)

Transient accommodations (TA-3)

Transient accommodations (TA-4)

Transient accommodations (TA-5)

Transient accommodations (TA-6)

Transient accommodations (TA-7)

Transient accommodations (TA-8)

\*\*\*

**§ 125-49 Shoreland General Development II (Hulls Cove).**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Commercial fish pier

Commercial structure

Eleemosynary, educational or scientific institution

**Employee living quarters**

Essential services accessory to a permitted use or structure

Ferry terminal

Marina

Multifamily dwelling I

Multifamily dwelling II

Road construction

Single-family dwelling

\*\*\*

**§ 125-49.1 Shoreland General Development III.**

\*\*\*

D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; **employee living quarters**; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-49.3 Shoreland Maritime Activities District.**

\*\*\*

C. Allowed uses.

\*\*\*



- (2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure and shall include bank; farmers market; hotel; multifamily dwelling I; multifamily dwelling II; parking deck; parking lot; professional office building; restaurant; retail; take-out restaurant and wireless telecommunications facility.
- D. The following uses shall be permitted by site plan review in any part of this district: employee living quarters; functionally water-dependent uses, including permanent piers, wharfs and docks; commercial boat yard; commercial fish pier; passenger terminal; ferry terminal; marina; services.

\*\*\*

~~F. Other requirements.~~

- ~~(1) Multifamily I and multifamily II uses are limited to employee housing.~~

## Article V. Site Plan Review

\*\*\*

### §125-67 General review standards

\*\*\*

- D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

- (3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

\*\*\*

(x) Employee living quarters shall not be required to provide parking.

\*\*\*

§ 125-69 Standards for particular uses, structures, or activities

\*\*\*

W. Employee living quarters. All employee living quarters shall meet the following standards:

(1) Design: When employee living quarters are visible from the street or from an abutting property to the side or rear lot lines that is under different ownership or control, the employee living quarters shall be visually compatible with the principal building(s) and shall provide for rooflines that are similar in pitch and materials and building materials that are similar in regard to type and color scheme as the principal building(s).

(2) Setback requirements: Employee living quarters shall meet the same setback requirements as principal structures.

(3) Building footprint area: The total building footprint area of the employee living quarters shall not exceed 25% of the total building footprint area of the principal building(s) on the lot.

(4) Density bonus.

(a) An employee living quarters (including its associated accessways and parking areas) may benefit from increased lot coverage not to exceed:

- [1] 63% in the Bar Harbor Gateway district
- [2] 44% in the Mount Desert Street Corridor district
- [3] 63% with sewers and 31% without sewers in the Village Residential district
- [4] 85% in the Hulls Cove Business district
- [5] 31% in the Ireson Hill Corridor district
- [6] 44% in the Salisbury Cove Village district
- [7] 63% in the Town Hill Business district
- [8] 19% in the Town Hill Residential district

(b) All other (non-employee living quarters, including its associated accessways and parking) uses, activities, and structures, on the lot, shall be subject to the lot coverage requirements of the district it is in, as well as all other requirements of this chapter.

(c) If an employee living quarters (including its associated accessways and parking), increases the lot coverage as allowed under section 125-69 W.(4), it may not be enlarged, expanded, or otherwise provide for any other use, unless the lot coverage is brought into compliance with the requirements of the district it is in.

(5) Change of Use. A change of use from employee living quarters to another use shall comply with all requirements of this chapter, including lot coverage requirements.

(6) Parking benefitting from the density bonus (increased lot coverage) shall be for the exclusive use of the occupants of the employee living quarters.

(7) Every bedroom in employee living quarters shall contain not less than 70 square feet of habitable floor area for each occupant excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven (7) feet in any horizontal dimension.

\*\*\*

## Article XII. Construction and Definition

\*\*\*

### § 125-109 Definitions.

The following terms shall have the following meanings:

\*\*\*

#### EMPLOYEE LIVING QUARTERS

An accessory structure, attached or detached from the principal structure, consisting of a series of rooms containing beds, where the occupants do not constitute a family or a single housekeeping unit. It shall be used exclusively for the accommodation of employees, for more than 30 days, that are employed on- or off-site, as long as the off-site employees are employed by the same company, a parent company, or a subsidiary company that owns the parcel where the principal structure is located. Employee living quarters serving a hospital shall not be subject to the 30-day minimum requirement. Employee Living Quarters must serve another use on the lot, meaning it cannot be the only use on the lot.

\*\*\*

#### FOOTPRINT AREA, BUILDING

The total square footage of a building or buildings if viewed from above, including areas under overhangs.

## **FAMILY**

Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit (including a vacation rental) and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, ~~or~~ transient accommodations, or employee living quarters.

---

**EXPLANATION:** This amendment would create and define a new use titled “employee living quarters”; allow for the use in 14 specific districts; provide specific standards for the use; amend the definition of “family”; and create a new definition titled “floor area, ground”; and prohibit multifamily dwelling I and multifamily dwelling II uses in the Shoreland Maritime Activities District.

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Given under our hand and seal at Bar Harbor the **XX** day of **XXXXXX**, 2020.

Municipal Officer of the Town of Bar Harbor

\_\_\_\_\_  
Jefferson Dobbs, Chair

\_\_\_\_\_  
Matthew A. Hochman, Vice Chair

\_\_\_\_\_  
Gary Friedmann

\_\_\_\_\_  
Joseph Minutolo

\_\_\_\_\_  
Stephen Coston

\_\_\_\_\_  
Erin Cough

\_\_\_\_\_  
Jill Goldthwait



# Draft Order

## Of the Bar Harbor Town Council

### For the June 9, 2020 Town Meeting

It is hereby ordered that the following article be placed on the annual town meeting warrant with voting thereon to be held by Australian ballot.

---

### Warrant Article

Article **XX** **LAND USE ORDINANCE AMENDMENT – Shared Accommodations** – Shall an ordinance, dated December 16, 2019, and entitled “An amendment to create and define a new use titled ‘shared accommodations’ with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of ‘family’” be enacted?

---

### Shared Accommodations

An amendment to Articles III, V, XII, and XIII

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## Chapter 125 , LAND USE ORDINANCE

### Article III. Land Use Activities and Standards

§ 125-17 **Bar Harbor Gateway.**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code

Enforcement Officer: artist studio; child care family; gallery; government facility; home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); municipal facility; municipal school; public or private park with minimal structural development; shared accommodations (SA-1); vacation rentals; single-family dwelling and two-family dwelling.

\*\*\*

D. Uses allowed by site plan.

(1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; parking lot; parking deck; parking garage, also subject to Design Review Board certificate of appropriateness; private compulsory school; professional office building; restaurant; retail; road construction; services; shared accommodations (SA-2 and SA-3); take-out restaurant; wind turbines, and wireless communication facilities.

\*\*\*

**§ 125-19 Mount Desert Street Corridor District.**

\*\*\*

C. Allowed uses.

(1) Principal uses allowed with a building permit or a change of use permit from the Code Enforcement Officer: art gallery, home occupation, museum, place of worship; public or private park, shared accommodations (SA-1); single- or two-family dwelling; vacation rentals.

\*\*\*

D. Uses allowed by site plan.

(2) Principal uses allowed by major site plan: convalescent home; multifamily I and II; shared accommodations (SA-2 and SA-3); theaters.

\*\*\*

**§ 125-21 Downtown Village I.**

\*\*\*

**C. Allowed uses:**

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail; public information, municipal and government uses; restaurants and bars; theaters; galleries; services; **shared accommodations (SA-1)**; professional offices; vacation rentals; all bed-and-breakfasts; food-processing establishment; theaters; single- and two-family dwelling units; laundry and dry cleaning; artist studio, eleemosynary institution, place of worship; farmers market; home occupation.

(2) Uses allowed by site plan review: hotel; motel; conference centers; multifamily dwelling I and II; all types of child-care facilities, all types of schools; medical and dental clinics; banks; automobile service stations; hospitals; parking lot; parking deck; road construction; automobile sales lot; automobile repair garage; retirement community; **shared accommodations (SA-2 and SA-3)**.

\*\*\*

**§ 125-21.1 Downtown Village II.**

\*\*\*

**C. Allowed uses.**

(1) Uses allowed by a building permit or a change of use permit with the Code Enforcement Officer: all retail, public information; municipal and government uses; restaurants and bars on lots with frontage on Cottage Street, Main Street, Mount Desert Street or West Street; theaters; galleries; artist studios; banks; services; **shared accommodations (SA-1)**; vacation rentals; theaters; all bed-and-breakfasts; food-processing establishment; professional office buildings; laundry and dry cleaning; artist studio; farmers market; single-family dwelling; two-family dwelling; home occupation.

(2) Uses allowed by site plan review: hotel, motel; multifamily dwelling I and II; parking lot; parking deck; all types of child-care facilities; all types of schools; hospitals, medical and dental clinics; automobile service stations; redemption centers; automobile sales lot; automobile repair garage; retirement community, veterinary clinic; **shared accommodations (SA-2 and SA-3)**.

\*\*\*



§ 125-24 **Hulls Cove Business.**

\*\*\*

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

Bank

Commercial boatyard

Commercial fish pier

Commercial stable

Ferry terminal

Hospital

Light manufacturing/assembly plant

Marina

Multifamily dwelling I

Multifamily dwelling II

Municipal school

Parking lot

Recreational boating facility

Research facility

Research production facility

Road construction

Shared accommodations (SA-2)

Shared accommodations (SA-3)

Transient accommodations (TA-1)

Transient accommodations (TA-2)

Wireless communications facility

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Agriculture, avocational

Commercial art gallery or pottery barn

Commercial garden, greenhouse or nursery

Driveway construction

Farmers' market

Filling/earthmoving activity of 10 cubic yards or more

Public or private park with minimal structural development

**Shared accommodations (SA-1)**

Single-family dwelling

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

**§ 125-31 Ireson Hill Corridor.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Commercial art gallery or pottery barn

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Grocery stores

Noncommercial greenhouse

Public or private park with minimal structural development

Roadside stand

**Shared accommodations (SA-1)**

Single-family dwelling

Two-family dwelling

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

**§ 125-43 Town Hill Business.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Agriculture, avocational

Commercial art gallery or pottery barn

Commercial garden, greenhouse or nursery

Driveway construction

Farmers' market

Filling/earthmoving activity of 10 cubic yards or more

Grocery stores

Noncommercial greenhouse

Noncommercial kennel

Noncommercial stable

Public or private park with minimal structural development

Roadside stand

**Shared accommodations (SA-1)**

Single-family dwelling

Two-family dwelling

Undertaking establishment

Uses or small structures accessory to permitted uses or structures

Vacation rentals

Veterinary clinic

\*\*\*

**§ 125-44 Town Hill Residential Corridor.**

\*\*\*

E. Activity or structure requires permit from Code Enforcement Officer. Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built:

Accessory dwelling

Agriculture, avocational

Commercial garden, greenhouse or nursery

Driveway construction

Filling/earthmoving activity of 10 cubic yards or more

Noncommercial greenhouse

Noncommercial kennel

Noncommercial stable

Public or private park with minimal structural development

Roadside stand

**Shared accommodations (SA-1)**

Single-family dwelling

Two-family dwelling

Undertaking establishment

Uses or small structures accessory to permitted uses or structures

Vacation rentals

\*\*\*

## **Article V. Site Plan Review**

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### **125-67 General review standards**

\*\*\*

- D. **Parking requirements.** Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

- (3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

\*\*\*

**(v) Shared accommodations**

**[1] Shared accommodations (SA-1): Based on maximum occupancy, parking shall be provided at a rate of 0.5 parking space per occupant in the Bar Harbor Gateway, Mount Desert Street Corridor, Hulls Cove Business, Ireson Hill Corridor, Town Hill Business, and the Town Hill Residential Corridor districts. Parking spaces may be allowed in tandem with a maximum of two vehicles in a row. The minimum area per parking space shall be 136 square feet.**

**[2] Shared accommodations (SA-2 and SA-3): Based on maximum occupancy, parking shall be provided at a rate of 0.2 parking spaces per occupant in the Bar Harbor Gateway and the Hulls Cove Business districts and 0.1 parking spaces per occupant in the Mount Desert Street Corridor District.**

\*\*\*

**§ 125-69 Standards for particular uses, structures, or activities**

\*\*\*

**X. Shared accommodations. Every bedroom in shared accommodations shall contain not less than 70 square feet of habitable floor area for each occupant, excluding enclosed spaces such as closets and bathrooms, and shall not be any less than seven (7) feet in any horizontal dimension.**

\*\*\*

|   |
|---|
| <b>Article XII. Construction and Definition</b> |
|---|

\*\*\*

**§ 125-109 Definitions.**

\*\*\*

**FAMILY**

Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit (including a vacation rental) and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, or transient accommodations, or shared accommodations.

\*\*\*

### **SHARED ACCOMMODATIONS**

Any group of three or more rooms, other than lodging or vacation rental, where for direct or indirect compensation the occupants live in furnished rooms with shared kitchens for more than 30 days. The occupants do not constitute a family or a single housekeeping unit. The makeup of the occupants is determined by the landlord, property manager, or other third party and not by the occupants themselves. A shared accommodation serving a hospital shall not be subject to the 30-day minimum requirement. There are three different types of shared accommodations:

- A. SA-1: 3 to 8 people per structure
- B. SA-2: 9 to 32 people per structure
- C. SA-3: 33 or more people per structure

\*\*\*

## **Article XIII. Design Review**

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### **§ 125-112 Applicability of design review.**

#### **A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004; 6-9-2009; 11-3-2009]**

- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
- (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Village I District; Downtown Village II District; the Shoreland General Development I District; Shoreland General Development II District; the Village Historic District; and the Town Hill Business District. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes all bed-and-breakfast uses, all shared accommodations uses, and individual properties with the following uses, regardless of their district location: TA-1, TA-3, TA-4, and TA-6. The district also includes properties listed in Appendix A and/or Appendix B of this chapter.

\*\*\*

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**EXPLANATION:** This amendment would create and define a new use titled “shared accommodations” with three levels of the use based on number of occupants; allow for one or more of those three levels of the use in eight specific districts; provide specific standards for the use; make all levels of shared accommodations subject to Design Review Board approval; and amend the definition of “family”.

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Given under our hand and seal at Bar Harbor the **XX** day of **XXXXXX** 2020.

Municipal Officer of the Town of Bar Harbor

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Jefferson Dobbs, Chair

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Matthew A. Hochman, Vice Chair

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Gary Friedmann

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Joseph Minutolo

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Stephen Coston

---

Erin Cough

---

Jill Goldthwait



# Draft Order

## of the Bar Harbor Town Council

### For the June 9, 2020, Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

---

#### Warrant Article

**Article XX LAND USE ORDINANCE AMENDMENT — Official District Boundary Map Amendment For Hulls Cove Business and Shoreland General Development II districts, and Amendments to Create and Define a New TA Use and to Add Two New Uses to the Shoreland General Development II District –** Shall an ordinance, dated December 16, 2019 and entitled “An amendment to the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all four of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, to create and define a new level of transient accommodation use (proposed as “TA-9”) in §125-109 and to establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, to amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow “TA-9” and “campground (shoreland districts)” as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district” be enacted?

---

#### Official District Boundary Map Amendment for Hulls Cove Business and Shoreland General Development II districts, and Amendments to Create and Define a New TA Use with a Parking Standard and to Add Two New Allowed Uses to the Shoreland General Development II District

An amendment to Article III, Article V and Article XII

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

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### Chapter 125 , LAND USE ORDINANCE

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### **Article III. Land Use Activities and Standards**

#### **§ 125-49 Shoreland General Development II (Hulls Cove).**

D. Activity or structure requires site plan approval. Activity or structure requires approval through site plan review process before it may be commenced or built:

##### **Campground (Shoreland Districts)**

Commercial fish pier

Commercial structure

Eleemosynary, educational or scientific institution

Essential services accessory to a permitted use or structure

Ferry terminal

Marina

Multifamily dwelling I

Multifamily dwelling II

Road construction

Single-family dwelling

##### **TA-9**

\*\*\*

### **Article V. Site Plan Review**

\*\*\*

#### **§ 125-67 General Review Standards**

\*\*\*

D. Parking requirements. Any activity that can be expected to generate vehicular traffic shall provide for off-street parking in accordance with the following requirements. Parking requirements may be reduced, as determined by the Planning Board, when at least 5% of the required parking spaces are designated for low-emitting and fuel-efficient vehicles, carpools or vanpools or any combination thereof, and are marked as such. Parking requirements may also be reduced, as determined by the Planning Board, for properties that are located on a regularly scheduled bus route.

\*\*\*

(3) Except as otherwise provided in this chapter, the following minimum off-street parking shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the parking demand according to the standards set forth below, or any increase in the area used which increases the number of persons using the premises. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements.

\*\*\*

(b) Transient accommodations:

[2] Hotels, motels, **TA-9** and conference centers: one parking space for each guest room.

## Article XII. Construction and Definitions

### § 125-109 Definitions.

The following terms shall have the following meanings:

#### TRANSIENT ACCOMMODATIONS

**1. TA-9 A building or buildings where for compensation lodging and meals are provided (four to 75 rooms). Accessory uses subject to site plan review include restaurant, conference room, retail establishment, recreational facilities, such as swimming pool, game courts, and recreational rooms or similar uses.**

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#### EXPLANATION:

This amendment would amend the Official Neighborhood District Map by extending a portion of the boundary of the Shoreland General Development II district to encompass all or part of the following parcels: Tax Map 223, Lots 011 and 014 and Tax Map 224, Lots 001 and 022 (all of which presently have portions in both Hulls Cove Business district and Shoreland General Development II district); additionally, would create and define a new level of transient accommodation use (proposed as “TA-9”) in §125-109 and establish a parking standard for that use in §125-67 D.(3)(b)[2]; and lastly, would amend §125-49 D. of the Land Use Ordinance (Shoreland General Development II) to allow “TA-9” and “campground (shoreland districts)” as uses permitted with site plan/Planning Board approval in the Shoreland General Development II district.

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Given under our hands and seal at Bar Harbor this XXXX day of XXXX, 2020.

**Municipal Officers of the Town of Bar Harbor**

\_\_\_\_\_  
Jefferson Dobbs, Chair

\_\_\_\_\_  
Matthew A. Hochman, Vice Chair

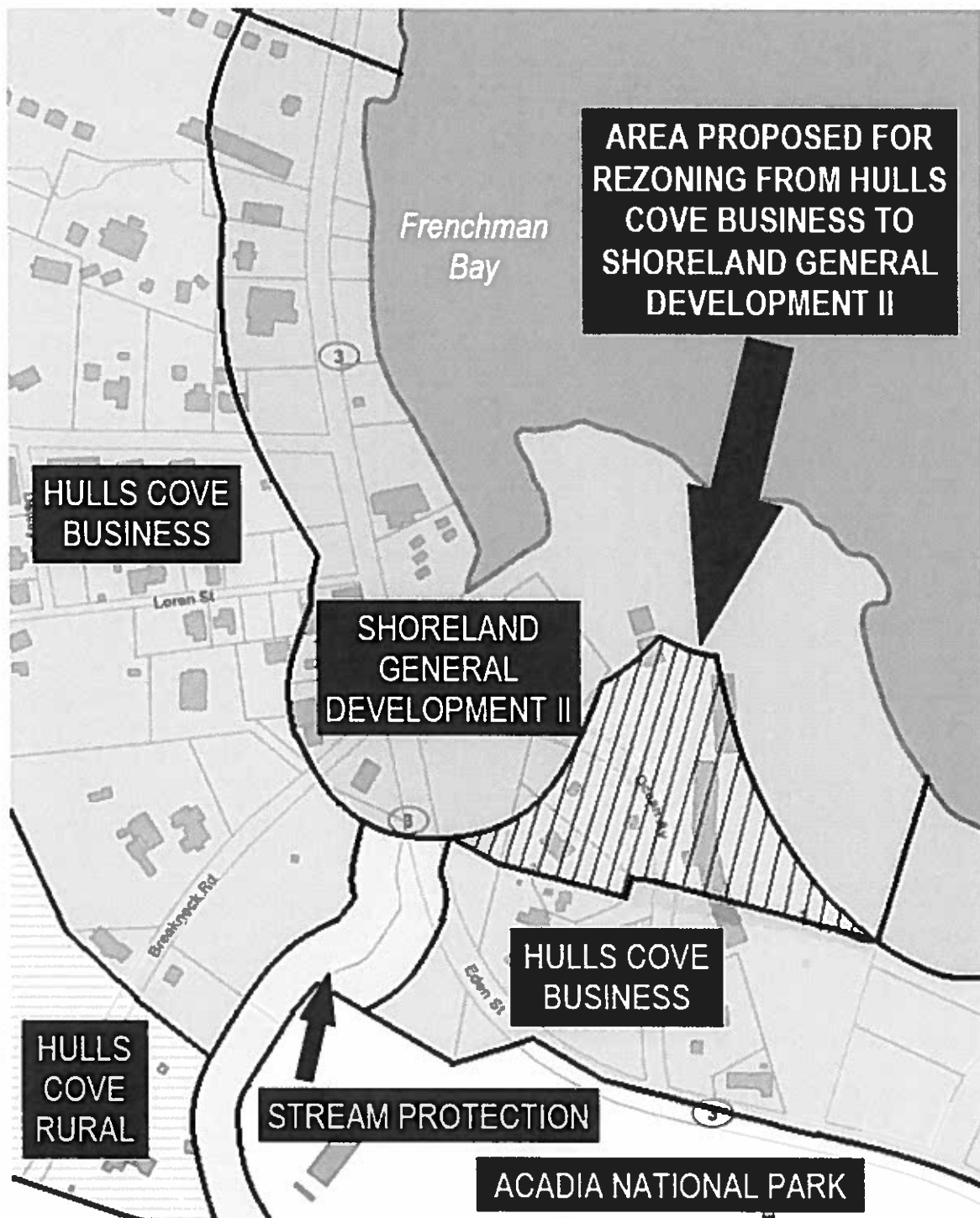
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Gary Friedmann

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Joseph Minutolo

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Stephen Coston

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Erin E. Cough

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Jill Goldthwait



12.10.2019

Bar Harbor Planning Board  
c/o Planning Department  
Bar Harbor Town Offices  
93 Cottage Street  
Bar Harbor ME 04609

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DEC 11 2019

TOWN OF BAR HARBOR  
PLANNING/CODE ENFORCEMENT



RE: Revisions to Shoreland General II District, Hulls Cove

Members of the Board,

Subsequent last week's meeting the Applicant has met with Town staff and modified the language for the proposed zoning. The revision is now adding a new TA category (TA-9) to definitions section §125-109, parking requirements for that use to performance standards in §125-67.D. and adding that use and CAMPGROUNDS (SHORELAND DISTRICTS) as allowed uses in Shoreland General II.

Proposed district boundary remains as was submitted earlier.

Respectfully submitted on behalf of the Applicant,

Perry N. Moore, ASLA  
Maine Licensed Landscape Architect 2699  
Pennsylvania Professional Landscape Architect 3255  
**Principal**  
**The Moore Companies**

**§ 125-49 Shoreland General Development II (Hulls Cove).[Amended 11-5-1996; 11-3-2009; 6-12-2018]**

**A. Purpose.**

**B. Dimensional standards.**

(1) Minimum lot size: 30,000 square feet per residential dwelling unit in tidal areas and 40,000 square feet per residential dwelling unit in nontidal areas; 60,000 square feet per governmental, institutional, commercial or industrial structure adjacent to nontidal areas; 40,000 square feet for all other uses or structures.

(2) Minimum road frontage and lot width: 100 [feet] with sewers; 150 [feet] without sewers.

(3) Minimum shore frontage: 150 [feet] per residential dwelling unit adjacent to tidal areas; 300 [feet] per governmental, institutional, commercial or industrial structure adjacent to nontidal area; 200 [feet] for all other uses or structures.

(4) Minimum front setback: 75 [feet] from the center of Route 3, and 25 [feet] from the front lot line elsewhere.

(5) Minimum side setback: five [feet].

(6) Minimum rear setback: 15 [feet].

(7) Maximum lot coverage: 70% adjacent to tidal areas and rivers which do not flow to great ponds classified GPA; 20% elsewhere.

(8) Maximum height: 40 [feet].

(9) Minimum area per family: 30,000 square feet.

**C. Allowed activity or structure.** Activity or structure allowed without a permit, provided that it complies with all provisions of this chapter: Activities necessary for managing and protecting the land, such as surveying, fire protection, emergency operations, etc. Filling/earthmoving activity of less than 10 cubic yards Non-intensive recreational uses, not requiring structures, such as hunting, fishing and hiking Public utility installation

**D. Activity or structure requires site plan approval.** Activity or structure requires approval through site plan review process before it may be commenced or built:

**Campground (Shoreland Districts)**

Commercial fish pier

Commercial structure

Eleemosynary, educational or scientific institution

Essential services accessory to a permitted use or structure

Ferry terminal

Marina

Multifamily dwelling I

Multifamily dwelling II

Road construction

Single-family dwelling

**TA-9**

(1) Accessory uses or structures. Planning Board/Planning Department approval required for uses or structures accessory to uses or structures requiring Planning Board/Planning Department approval: Uses or structures accessory to permitted uses or structures

(2) Total developed area greater than 2,000 square feet. Planning Board approval required for uses or structures with total developed area of more than 2,000 square feet: Government facility and grounds

(3) Permanent pier, dock, wharf, breakwater. Planning Board approval required for permanent structures: Pier, dock, wharf, breakwater or other use projecting into the water

(4) Uses or structures greater than 2,000 square feet. Planning Board/Planning Department approval required for uses or structures with gross leasable area of more than 2,000 square feet: Gift shops

(5) Wind turbine. Minor site plan review required: Wind turbine

§ 125-67. D. (3) (b) [2] Hotels, motels, TA-9 and conference centers: one parking space for each guest room.

§ 125-109. Definitions.

#### TRANSIENT ACCOMMODATIONS.

I. TA-9. A building or buildings where for compensation lodging and meals are provided (four to 75 rooms). Accessory uses subject to site plan review include restaurant, conference room, retail establishment, recreational facilities, such as swimming pool, game courts, recreational rooms or similar uses.



